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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,273	06/24/2003	Katherine Waymire	672.001	3373

7590 12/28/2004

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EXAMINER

REESE, DAVID C

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/606,273	Applicant(s) WAYMIRE, KATHERINE
	Examiner David C. Reese	Art Unit 3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 24 June 2003.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-21 is/are pending in the application.

4a) Of the above claim(s) 18-21 is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-17 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____
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DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-17, drawn to an adornment, classified in class 63, subclass 1.11.
- II. Claims 18-20, drawn to a method of making an adornment for receiving a stemware stem or napkin, classified in class 29, subclass 896.4.
- III. Claim 21, drawn to an adornment package, classified in class 53, subclass 128.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, there is more than one method for making an adornment for receiving a stemware stem or napkin such as fixing a head to one end of the helical segment via means of metal working instead of an adhesive.

Invention III is distinct from the other inventions because the package that would potentially hold the adornment is considered another, separate invention.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II or III, restriction for examination purposes as indicated is proper.

During a telephone conversation with David Stein on 12/14/04 a provisional election was made without traverse to prosecute the invention of I, claims 1-17. Affirmation of this election must be made by applicant in replying to this Office action. Claims 18-20, and 21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Status of Claims

[1] Claims 1-17 are pending.

Claim Objections

[2] Claims 9, 15 are objected to because of the following informalities: grammatical errors. In Claim 9, there are two (b)'s; and in Claim 13, the last sentence, "...retains is helical..." should be "retains its helical..."

Appropriate correction is required.

Claim Rejections - 35 USC § 102

[3] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[4] Claim 1 rejected under 35 U.S.C. 102(b) as being anticipated by Artisans on Web, 02/02 (printed handout included).

Artisans on Web teach of both stemware and wineglass I.D. Bracelets.

As for Claim 1, Artisans on web teach of stemwear that comprises a generally helical performed clip (helical shaped clip of the stemwear or I.D. Bracelets as represented on the attached printout; incorporating either the ring clip or the bracelet that can be wrapped around the stem of a wineglass) that releasably receives one of a napkin and a stem of a stemware (as stated in the handout, "simply hook one...to the stem of your glass"; and "...that you wrap around the stems of your wineglasses").

Claim Rejections - 35 USC § 103

[5] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[6] Claims 2-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Artisans on Web, 02/02 (printed handout included) in view of Jewelry Supply.com (printed handout included).

Artisans on Web teach of both stemware and wineglass I.D. Bracelets that include beads that you wrap around the stems of stemware.

However, Artisans on Web fails to disclose expressly that the bracelets have a head fixed at each end of the helical segment, and that memory wire is the fundamental medium by which the beads are placed.

JewelrySupply.com teaches of the use of memory wire which will retain its original shape even after repeated use, in addition, jewelry supply.com teaches of memory wire end cap beads that can be used to finish the ends of a memory wire project, by using an adhesive, glue for example, to attach the ends to the memory wire.

At the time of invention, it would have been obvious to one of ordinary skill in the art to modify the wineglass I.D. bracelet as taught by Artisans on Web, to incorporate a memory wire basis for construction including a design choice of end cap beads as

taught by jewelrystore.com, in order to properly finish the ends of a memory wire project, deterring the beads from falling off the end, and as well as to provide an additional design choice for the user. In addition, using wire such as memory wire allows the user to bend or wrap the wire around the stem of the wineglass, allowing the wrap to stay in its position until the user decides to remove it from the wineglass. Also, since the wire is a memory wire, it has the capacity to retain its use after repeated use, thus the user is able to freely change or exchange the stemware or the adornment with another embodiment.

Now as for Claim 2, Re: Claim 1, Artisans on Web teach of a wineglass I.D. Bracelet wherein the generally preformed clip (Artisans on Web in view of jewelrystore.com; substituting the characteristic memory wire and end caps of jewelrystore.com into the I.D. bracelet as depicted by Artisans on Web) is comprised of a helical segment of wire having a head fixed at each end of the helical segment (Artisans on Web in view of jewelrystore.com; substituting the characteristic memory wire and both end caps of jewelrystore.com into both ends of the I.D. bracelet as depicted by Artisans on Web).

Now as for Claim 3, Re: Claim 1, Artisans on Web teach of a wineglass I.D. Bracelet wherein the generally helical performed clip is comprised of a wire having a thickness of at least eighteen gauge (it would be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, in the instant case using a wire having at least a thickness of eighteen gauge to help maintain resiliency and durability) and further

comprising a head attached by a non-blooming adhesive to each end of the wire
(Artisans on Web in view of jewelrystore.com; substituting the characteristic memory wire and both end caps of jewelrystore.com into both ends of the I.D. bracelet via adhesive, glue in this case).

Now as for Claim 4, Re: Claim 1, Artisans on Web teach of a wineglass I.D. Bracelet wherein the generally helical preformed clip is comprised of a generally helical segment of wire that overlaps one of the napkin and the stem along an axial direction of one of the napkin and the stem (top picture on page 4 of the printed handout of Artisans on Web showing the generally helical segment of wire (in view of jewelrystore.com) overlapping the stem along an axial direction).

As for Claim 5, Re: Claim 1, Artisans on Web teach of a wineglass I.D. Bracelet wherein the generally helical preformed clip is comprised of a segment of wire that is performed around a cylinder into a generally helical shape to impart a shape memory to the wire such that that the adornment will snap onto the stemware stem (example of intended use as this specific claim does not further limit the structure of the claimed invention. "It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987)).

As for Claim 6, Re: Claim 1, Artisans on Web teach of a wineglass I.D. Bracelet wherein the generally helical preformed clip is comprised of a segment of shape memory wire that forms a cradle that has a snap fit with the stemware stem (Artisans on

Web in view of the memory wire provided by jewelrystore.com; in substituting memory wire into the bracelet of Artisans on Web, it would be within the general skill of a worker in the art to realize that the properties of memory wire will account for the cradle that is formed as the wire is wrapped around the stem of the stemware, thus providing a snap fit with the stem).

As for Claim 7, Re: Claim 1, Artisans on Web teach of a wineglass I.D. Bracelet wherein the generally helical preformed clip is comprised of wire having a diameter of at least 0.045 inches so as to retain its shape memory when formed into a helical segment of wire (it would be within the general skill of a worker in the art to select a known material with its corresponding thickness on the basis of its suitability for the intended use as a matter of obvious design choice, in the instant case using a wire having at least a thickness of eighteen gauge and diameter of 0.045 inches to help maintain resiliency during memory shaping and durability), and the helical segment of wire circumferentially overlaps along an axial direction when received on the one of the napkin and the stemware stem (axial direction of the segment as viewed in page 4 of the printed handout of Artisans on Web).

As for Claim 8, Re: Claim 5, Artisans on Web teach of a wineglass I.D. Bracelet wherein the preformed generally helical clip comprises a generally helical segment having (a) at least one indicia or aesthetically pleasing object carried by the generally helical segment so as to be movable relative thereto (the beads and charms that accompany the wineglass I.D. Bracelet as viewed in pages 3 and 4 of the printed handout), and (b) having a head fixed at each end of the generally helical segment that

is larger than the at least one indicia or aesthetically pleasing object (Artisans on Web in view of jewelrystore.com; substituting the characteristic memory wire and both end caps of jewelrystore.com into both ends of the I.D. bracelet via adhesive, glue in this case).

As for Claim 9, Re: Claim 5, Artisans on Web teach of a wineglass I.D. Bracelet wherein the preformed generally helical clip comprises a generally helical segment of German jewelry wire having (a) a thickness of at least 0.038 inches, (it would be within the general skill of a worker in the art to select a known material with its corresponding thickness on the basis of its suitability for the intended use as a matter of obvious design choice, in the instant case using a wire having at least a thickness of eighteen gauge and German jewelry wire) (b) a plurality of beads received on the helical segment of German jewelry wire with each bead movable relative to the helical segment of German jewelry wire, (the beads and charms that accompany the wineglass I.D. Bracelet as viewed in pages 3 and 4 of the printed handout) and (c) having a bead fixed at each end of the helical segment of German jewelry wire (Artisans on Web in view of jewelrystore.com; substituting the characteristic memory wire and both end caps of jewelrystore.com into both ends of the I.D. bracelet via adhesive, glue in this case).

As for Claim 10, Artisans on Web teach of a wineglass I.D. Bracelet comprising:
a helical segment of wire (Artisans on Web in view of jewelrystore.com; substituting the characteristic memory wire, then wrapped in a helical orientation around the stem of stemware as shown on page 4 of Artisans on Web);

a head fixed to each end of the helical segment of wire (Artisans on Web in view of jewelrystore.com; substituting the characteristic memory wire and both end caps of jewelrystore.com into both ends of the I.D. bracelet via adhesive, glue in this case);

a head carried by the helical segment of wire and disposed between the ends of the helical segment of wire (the beads and charms that accompany the wineglass I.D. Bracelet between the ends as viewed in pages 3 and 4 of the printed handout); and

wherein the helical segment of wire circumferentially overlaps in an axial direction when received on one of a stemware stem and napkin (axial direction of the segment as viewed in page 4 of the printed handout of Artisans on Web).

As for Claim 11, Re: Claim 10, Artisans on Web teach of a wineglass I.D. Bracelet wherein the helical segment of wire is composed of German jewelry wire and each head comprises a bead that is larger than the bead carried by the helical segment of wire and disposed between the ends of the helical segment of wire (as shown in the picture at the bottom of page 3 of Artisans on Web, one will notice the bigger beads/markers at the end of the bracelet that exist before the addition of the end caps are bigger than the other beads as outlined in-between the two heads as provided by jewelrystore.com).

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As for Claim 12, Re: Claim 10, Artisans on Web teach of a wineglass I.D. Bracelet wherein the helical segment of wire is composed of metallic wire (wire from jewelrystore.com) having thickness such that it retains its use after repeated use and the bead (memory wire from jewelrystore.com, "retain its original shape even after repeated use") and each head is comprised of a colored acrylic material (color of end

cap beads, page 1 of jewelrystore.com) with each head fixed to the helical segment of wire using a low blooming cyanoacrylate adhesive (glue as provided from jewelrystore.com).

As for Claim 13, Artisans on Web teach of a wineglass I.D. Bracelet comprising:
a preformed helical segment of wire having a length not more than three inches (length of bracelet as viewed in the picture at the bottom of page 3 of Artisans on Web, not more than three inches);

a plurality of spaced apart indicia carried by the helical segment of wire with one of the indicia disposed adjacent one end of the helical segment of wire and the other one of the indicia disposed adjacent the other end of the helical segment of wire (the beads and charms that accompany the wineglass I.D. Bracelet between the ends and at the ends as viewed in pages 3 and 4 of the printed handout); and

wherein the helical segment of wire retains its helical shape after being put onto and taken off of a plurality of times (memory wire from jewelrystore.com, "retain its original shape even after repeated use")

As for Claim 14, Re: Claim 13, Artisans on Web teach of a wineglass I.D. Bracelet wherein the helical segment of wire is composed of German jewelry wire that is eighteen gauge or thicker (it would be within the general skill of a worker in the art to select a known material with its corresponding thickness on the basis of its suitability for the intended use as a matter of obvious design choice, in the instant case using a wire having at least a thickness of eighteen gauge and German jewelry wire) and further comprising a low-blooming adhesive disposed between each indicia and the helical

segment of wire fixing each indicia thereto (Artisans on Web in view of jewelrystore.com; substituting the characteristic memory wire and both end caps of jewelrystore.com into both ends of the I.D. bracelet via adhesive, glue in this case).

As for Claim 15, Re: Claim 13, Artisans on Web teach of a wineglass I.D. Bracelet wherein the preformed helical segment of wire and plurality of indicia form an interference fit with the received object (Artisans of Web in view of jewelrystore.com in the top picture of page 4 of Artisans of Web showing the interference fit between the bracelet and the stem of stemware).

As for Claim 16, Re: Claim 15, Artisans on Web teach of a wineglass I.D. Bracelet wherein the interference fit comprises a snap fit (Artisans of Web in view of jewelrystore.com in the top picture of page 4 of Artisans of Web showing the interference fit between the bracelet and the stem of stemware, and since the bracelet is composed of memory wire, the memory wire in nature will be responsible for comprising the snap fit between the bracelet and the stem from the stemware).

As for Claim 17, Re: Claim 13, Artisans on Web teach of a wineglass I.D. Bracelet wherein the helical segment comprises a cradle and further comprising a head attached to each end of the cradle that bears against the object to help retain the adornment on the object (cradle formed as a result of the memory wire characteristics, and due to such this with the help of the heads at both ends of the bracelet will in nature provide a entity/force to help bear against the object to help retain the adornment on the object).

Conclusion

[7] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is urged to view existing prior art with regard to the current claimed invention, as there are numerous structures, links stated below, that read highly onto the current application.

The following patents are cited further to show the state of the art with respect to this particular type of adornment, as well as their extreme relevance to the current application: <http://www.wareables.com/>; <http://www.buyglasswear.com/>; <http://www.eco-artware.com/catalog/WWR-markers.shtml>; <http://www.jillery.com/>; <http://www.cantontradedays.com/sweetashoney/sweetashoney.htm>; http://www.serenityhealth.com/wine_charms_descript/twist_up_wine_charms_lg.html; <http://www.letswrapitup.com/glasses.html>; <http://groovyglassgirl.com/>; <http://www.jewelrystore.com/EJS/projwinecharm.htm>; <http://beadland.com/>; <http://www.jsbeads.com/winecharms/Memory.asp>; <http://www.rings-things.com>; <http://www.beadingt看times.com/project0603.htm>; <http://giftsgaloreltd.com/>; <http://www.calvinoselect.com/index.asp?PageAction=VIEWPROD&ProdID=228>; <http://www.victorianlaurels.com/charms.html>; Holmes et al., US 6,741,150; Skapyak et al., 6,530,163; Loerch, D447,666; Drakin et al., D398,489; Cook, D332,888; Shafa, D391,812; DiBella, D375,229.

[8] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is 703-305-4805. The examiner can normally be reached on 7:30 am - 5:00 pm M-Th, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,
David Reese
Examiner
Art Unit 3677



ROBERT J. SANDY
PRIMARY EXAMINER